

AN ORDINANCE**BY COUNCILMEMBER ANNE FAUVER**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, PART II - GENERAL ORDINANCES, CHAPTER 138 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE IV, IMPROVEMENTS WITHIN THE RIGHT-OF-WAY, DIVISION 2 STREETS BY ADDING SUBSECTIONS 138-86, 138-87, AND 138-88 REGARDING BLOCKING OR CLOSING OF PUBLIC STREETS AND SIDEWALKS; AUTHORIZING THE PLACEMENT OF DUMPSTERS IN THE RIGHT-OF-WAY UNDER PRESCRIBED CONDITIONS; SETTING FORTH REQUIREMENTS FOR INFORMATION AND REFLECTORS TO BE PLACED ON THE DUMPSTERS; CODIFYING FEES CHARGED FOR PERMITS WHICH ALLOW BLOCKING OR CLOSING OF PUBLIC STREETS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta's Code of Ordinances does not address the issue of drop off dumpsters placed in the public right-of-way; and

WHEREAS, this is a major concern for communities experiencing revitalization and the renovation boom associated with the economic upturn; and

WHEREAS, the City of Atlanta has developed a system for permitting closure of public right-of-ways and for permitting placement of dumpsters in the right-of-way but has not codified the process or permit fees; and

WHEREAS, the placement of drop off dumpsters in the public right-of-way is causing concerns for residents because the dumpsters are not illuminated and cannot be seen at night until residents or vehicular traffic is extremely close to them; and

WHEREAS, the drop off dumpsters currently placed in the public right-of-way do not have any identification so that concerned citizens can contact the dumpster owners to let them know of their concern about any hazard these non-illuminated drop off dumpsters pose; and

WHEREAS, the City of Atlanta's Code of Ordinances should require any business or property owner to post appropriate signage when placing a drop off dumpster in the public right-of-way.

NOW THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

SECTION 1: That the Code of Ordinances of the City of Atlanta Part II - General Ordinances, Chapter 138 Streets, Sidewalks and Other Public Places, Article IV, Improvements within the Right-of-Way; Division 2. Streets is amended by adding new Subsections 138-86, 138-87, and 138-88 as follows:

Sec. 138-86 Blocking or Closing of public streets and sidewalks.

- (a) It shall be unlawful for any contractor, public utility or person to block, or use for other than intended purposes, any portion of a public street or sidewalk of the City of Atlanta or to otherwise obstruct vehicular traffic or pedestrian traffic without having first obtained, from the City of Atlanta, a permit which shall state conditions which apply to the blockage or obstruction.
- (b) Applications for full street-closures must be submitted to the department of public works at least ninety-six (96) hours prior to the commencement of the closure such that seventy-two (72) hours notification may be given to emergency agencies (MARTA, Atlanta Public Schools, Special Operation Section of the Atlanta Police Department, Grady EMS and City of Atlanta Fire Department).
- (c) Violation of the conditions stated in the permit required by this section, or failure to obtain or maintain a valid permit shall constitute an offense and shall be punishable as provided under Section 18-1008 of this code.

Sec. 138-87 Fees charged for permits which allow blocking or closing streets or sidewalks; etc.

- (a) The applicant for any permit issued by the department of public works for closing, occupying, blocking or otherwise using sidewalks or streets for building construction, building repairs, dumpster placement, vehicle parking, material or equipment storage, movement of oversize vehicles or loads and other special purposes shall, upon receipt of such permit, pay to the city a permit fee as provided in this section. Payment of such permit fees shall be made by certified check or cashier's check.
- (b) There shall be a \$20 fixed fee for all permits issued as provided in this section, unless otherwise provided herein.
- (c) A permit cost for use of up to 100 linear feet of any portion of the adjacent curb lane shall be \$10 per calendar day for the duration of the permit.
- (d) A permit cost for use of 101 to 200 linear feet of any portion of the adjacent curb lane shall be \$15 per calendar day for the duration of the permit.
- (e) A permit cost for use of 201 to 300 linear feet of any portion of the adjacent curb lane shall be \$20 per calendar day for the duration of the permit.
- (f) A permit cost for use of over 300 linear feet of any portion of the adjacent curb lane shall be \$25 per calendar day for the duration of the permit.

- (g) The permit cost for use of sidewalk space only shall be 40 percent of the permit cost as determined for paragraphs (c), (d), (e) and (f) of this section, based on the linear feet of sidewalk used.
- (h) The permit cost for use of multiple lanes or full street closure shall be the cost of a single lane permit as established in paragraphs (c), (d), (e) and (f), multiplied by the number of marked traffic lanes encroached upon by the permitted use. Where no lane markings are used, a lane width of 10 feet shall be assumed for determining the permit cost.
- (i) A miscellaneous fee for parking meters, emergency no parking signs, etc. may be added to the cost of the permit, where applicable.
- (j) Each truck, trailer, crane, tractor, structure or similar device parked or placed within public rights-of-way contrary to established parking regulations and not within an area permitted, as provided for by other portions of this section, shall be required to have from the department of public works a permit for such storage or parking. The cost of such permit shall be as established in paragraphs (c), (d), (e) and (f).
- (k) A permit for placement in the right-of-way for greater than 72 hours duration of any storage container used to hold household, person or other goods from the interior or exterior of a structure while that structure is under renovation or construction shall be \$100. The storage container may be in the right-of-way for up to 72 hours without requiring a permit. Any storage container so placed in the right of way must comply with the signage and reflective taping requirements prescribed in section 138-88(h).
- (l) A permit for moving vehicles over city streets which exceed the legal length, width, height or weight shall be \$200. Permit charges required in this subsection may be waived if such oversized vehicle or load thereon is being used as part of or in preparation for a parade, festival or such event.
- (m) The commissioner of the department of public works or his designee shall make a determination on any question concerning conditions which require a permit and shall approve waivers of permit fees as provided for herein.

Sec. 138-88-Dumpsters in the Right-of-Way

(a) Definitions. For purposes of this section, the following terms shall have the following meanings:

- (1) "Dumpster" shall mean any container used for the storage, collection, or removal of construction debris, demolition debris, or other discarded material but shall not include a refuse compactor or grease container, and shall also not include the refuse containers.

- (2) "Graffiti" shall mean an inscription, drawing, mark or design that is painted, sprayed or otherwise placed on or in a dumpster without the consent of the provider
- (3) "Provider" shall mean the person who leases or otherwise provides a dumpster for temporary use at the location requested.

(B) Permit required.

It shall be unlawful for any provider to place or maintain a dumpster on the public way unless such provider shall first obtain a dumpster permit. The consideration for a permit is made only if the dumpster cannot be accommodated on the owner's property during the period of construction.

(c) Application.

- (1) An application for a dumpster permit shall be made to the commissioner of public works through the Office of Transportation by the provider. The application form shall require the applicant to provide the following information:
 - (a) the name, address and telephone number of the provider of the dumpster(s);
 - (b) the number of dumpster(s) intended to occupy the permitted location;
 - (c) the street address adjacent to where the dumpster(s) will be located;
 - (d) the notification of neighbors and impacted NPU of the application for the dumpster;
 - (e) the intended use of the dumpster(s); and
 - (f) the intended period of occupancy of the dumpster(s).
- (2) During the term of the permit, in the event the permit holder seeks to provide a larger class of dumpster than specified in the dumpster permit, or extend the time of occupancy beyond the time specified in the dumpster permit, application must be made to the commissioner of public works or his designee for an amendment to the permit, and the appropriate adjustment to the permit fee must be submitted. Any change to items (b), (c) or (f) above will require application for and issuance of a new dumpster permit. Provided, however, that if the change to item (c) is necessitated by the presence of a fire hydrant or other object preventing legal placement of the dumpster at the street address for which initial application is made, an amendment to the permit will be acceptable, at no additional cost.

(d) Insurance.

No dumpster permit shall be issued until the applicant for such permit shall first have presented to the commissioner of public works or his designee proof of insurance against any liability, loss or claim arising out of the issuance of dumpster permits, or out of the placement, presence, use, maintenance or removal of the dumpster. Such insurance shall be issued by an insurer authorized to do business in Georgia, shall be in an amount no less than \$1,000,000.00 and shall name the City of Atlanta, its officers, employees and agents as additional insured. The insurance policy shall provide for 30 days written notice to the commissioner of public works prior to any lapse, cancellation or change in coverage. The insurance shall be maintained in effect at all times that the dumpster remains on the public right-of-way.

(e) Security.

No dumpster permit shall be issued until the applicant for such permit shall first have provided to the commissioner of public works or his designee a letter of credit in the amount of \$5,000.00 to ensure compliance with the provisions of this section and the permits issued thereunder, including payment of any costs, fees and fines and proper restoration of the public way upon removal of the dumpsters. The form of such letter of credit shall be set forth by regulation and shall be subject to the approval of the City Attorney. The commissioner of public works or his designee shall provide at least thirty (30) days written notice to the permittee, specifying the conditions or circumstances to be corrected, before drawing on a permittee's letter of credit.

(f) Alternative form of indemnity, protection or security.

Upon good cause shown, the commissioner of public works or his designee, in his or her discretion may require, instead of such insurance and letter of credit, any alternative form of indemnity, protection or security that he or she deems necessary to accomplish the above described purposes.

(g) Permit fee.

The permit fee for each dumpster permitted pursuant to Section 138-87 shall be as follows:

- (1) For the placement of each dumpster as per Section 138-87.
- (2) Fees for removal and replacement and/or disabling of parking meters provided for by Section 138-87(i) of the Code of Ordinances, as applicable.

(h) Dumpster identification.

It shall be the duty of the provider of the dumpster to paint or otherwise permanently affix on each dumpster:

- (1) the name and telephone number of the provider according to the following standards: the letters and numerals shall be a minimum of three inches in

height, shall be clearly legible from a distance of 30 feet, and shall be painted or otherwise affixed on both long sides of the dumpster, 12 inches down from the top or lip, and 12 inches from the corner; and

- (2) a unique identification number for the dumpster; and
- (3) to affix and maintain, on each of the four corners of the dumpster, high-intensity retro-reflective sheeting, or other retro-reflective or prismatic material or substance approved by the Office of Transportation, a minimum of three feet in length, and two inches in width along each side of the corner in a manner depicted in diagrams provided by the Office of Transportation.

(i) Location.

No dumpster shall be permitted for a location that is:

- (1) Within 40 feet of any bus stop.
- (2) Within 20 feet of any parking space designated for persons with disabilities.
- (3) Within 20 feet of any pedestrian crosswalk.
- (4) Within 30 feet of any intersection.
- (5) Within 15 feet of any fire hydrant.
- (6) On any parkway or sidewalk, unless the dumpster provider demonstrates to the satisfaction of the commissioner of transportation or his designee that an alternative location is not feasible and that placement of the dumpster(s) on such parkway or sidewalk would not create a safety hazard, disrupt pedestrian or vehicular traffic, or damage public or private property.

(j) Placement, appearance and maintenance of dumpster.

It shall be the responsibility of the provider:

- (1) Upon delivery, to place the dumpster immediately adjacent to the property identified by the street address stated on the permit application.
- (2) Upon delivery, to provide the dumpster free of graffiti.
- (3) Within three business days of receiving notification from the Office of Transportation, remove graffiti from the dumpster(s) identified in the notification.

- (4) When transporting or otherwise moving a dumpster, to ensure that no portion of the load is falling, shifting, blowing, dropping or in any way escaping from the dumpster. The provider shall use a tarpaulin or other appropriate cover to secure the top of a dumpster while in transit.

(k) Penalties

- (1) Any dumpster in the public way not bearing its identification information or reflective material as required by subsection (h) of this section, is not validly permitted; and
- (2) Any dumpster not located immediately adjacent to the street address specified in the permit may be removed by the city, and all costs associated with such removal shall be borne by the provider of the dumpster. The owner of a dumpster, if different from a provider, shall be jointly and severally liable with the provider for any violation of this section; and
- (3) Each day that a violation exists shall constitute a separate offense.

SECTION 2: That all ordinances and parts of ordinances in conflict herewith be and the same are hereby waived.